IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.3244 OF 2004

Shri Chander Ashok Kakade, .. Applicant.

vs

The State of Maharashtra, .. Respondent.

Mr. Anil N. Bugde, for the applicant.

Mr S.R.Shinde, APP for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 9th AUGUST, 2004.

PC:

1. Heard Mr.Bugde, learned counsel for the applicant and Mr.Shinde, learned A.P.P for the respondent.

2. The applicant has been shown arrested in C.R.No.4 of 2004 registered at Phaltan Road Police Station under sections 143,147,148,149 and 302 of Indian Penal Code read with section 37(a) and 135 of Bombay Police Act. The alleged occurrence took place on 6.1.2004 at 10 pm in which the applicant and seven others are alleged to have committed murder of Deepak Maruti Pawar by means of sword, stick and stump. In so far as the present applicant is concerned, he allegedly assaulted the deceased with the stump. The alleged occurrence was witnessed by 3-4 witnesses including complainant Sanjay Jadhav. The eye-witnesses -Arun Pawar, Kisan Jadhav and Vijay Kale have specifically attributed overtact to the

applicant. Mr.Bugde, learned counsel for the applicant, however, submitted that complainant Sanjay Jadhav did not name the applicant in the FIR. From perusal of the FIR and the supplementary statement of Sanjay Jadhav, it shows that Sanjay Jadhav had made an error in naming the applicant as Ravi Kakade which he corrected in the supplementary statement. In view of the statements of other eye-witnesses, in my opinion, the error committed by the complainant would not help the applicant at this stage. Moreover, the stump allegedly used by the applicant for assaulting the deceased and which was recovered at his instance, was found stained with blood. Keeping in view the aforestated material, this is not a fit case to enlarge the applicant on bail. The application is rejected.

(D.B.BHOSALE, J.)